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CENTRAL FAX CENTER****JUL 20 2006****REMARKS**Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remain of the position that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the following remarks.

Claims Status

Claims 1-11 are pending in this Application while Claims 2-5 have been withdrawn and Claims 1 and 6-11 are currently under prosecution. No amendments have been made at this time.

Rejection

Claims 1, 6-8 and 10 had been rejected as being anticipated by Nozawa; Claims 1, 6-8, 10 and 11 had been rejected as being unpatentable over Nozawa in view of Rimai; and Claim 9 has been rejected as being unpatentable over a combination of Nozawa, Rimai and Yachi.

Nozawa has been cited to teach a toner having an SF-1 of 120 to 170, and an SF-1/SF-2 ratio of 1.10 to 1.52. Nozawa was cited as inherently teaching the 5% or less of the toner particles had a diameter of 0.6 to 1.0. The Examiner's inherency argument is based on Examples 34, 70 and 71.

Rimai has been cited to teach 99% of the toner particles with a diameter of 1 to 4 microns. Based on Rimai, the Examiner takes the position that, if Rimai does not inherently disclose the 5% limitation, Rimai teaches that the 5% limitation teaches because he teaches that 99% of his particles have a diameter of 1 to 4 microns.

Yachi has been cited to teach an ester wax in a toner.

Turning first to Nozawa, Applicants respectfully submit that Nozawa does not inherently teach the 5% limitation in Examples 34, 70 and 71. First, Nozawa does not explicitly teach the 5% limitation, however, the Examiner points to Examples 34, 70 and 71 for inherency. Applicants have tested the two closest Examples, namely, Examples 34 and 70, and proven that neither of these examples inherently possesses the 5% limitation. With respect to Example 71, Example 71, although meeting the SF-1/SF-2 limitation of the claims, does not meet the SF-1 limitation.

The SF-1 limitation in the claims is 125 to 170. Toner 71 of Nozawa has an SF value of 172. Thus, Toner 71 is outside the claimed range with respect to SF-1.

In light of the discussion during the Interview conducted on June 22, 2006, it is understood that the Examiner agrees that the anticipation based on Nozawa should be removed. This is especially true since Toner 71 of Nozawa is farther removed than Toners 34 and 70 in that Toners 34 and 70 met both the SF-1 value of the claims and the SF-1/SF-2 ratio of the claims.

Turning to Rimai, Applicants continue to be of the position that the combination of Rimai and Nozawa would not lead one of skill in the art to non-spherical particles because Rimai states at Column 3, lines 18-20, it is preferred that the toner particles are substantially spherical and Nozawa teaches that it is preferred to have an SF-1 value in the range of 100 to 120, see Column 14, line 6 of Nozawa. An SF-1 value of 100 means that the particles are essentially spherical. Thus, it is respectfully submitted that one of skill in the art, when reading Nozawa and Rimai, is directed to spherical particles. This is in direct contrast to the present Invention which is directed to non-spherical particles since Applicants' SF-1 value is 120 to 170.

Merely, given the broad teaching of Rimai that any shaped particle can be used, leaves one of skill in the art in a quandary if they read Nozawa and Rimai together since Nozawa clearly teaches spherical particles while Rimai, taken the Examiner's position for arguments sake, teaches any shape particles. Thus, if one of skill in the art were to read Nozawa and Rimai together, it is submitted that one would be directed to spherical particles since spherical particles are preferred in Rimai and are specifically taught in Nozawa. To go contrary to the teachings of these two references, flies in the face of logic. Respectfully, the Examiner is merely using hindsight to obtain non-spherical particles from a combination of Rimai and Nozawa.

Conclusion

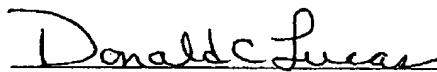
In view of the foregoing and the enclosed, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are

hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

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